

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
CLYDE A. SNELL AND JUDITH L. SNELL)
REVOCABLE TRUSTS, FROM A DECISION BY) Docket No. 2015-50
THE JOHNSON COUNTY BOARD OF)
EQUALIZATION (2015 Property Tax Assessment))

DECISION AND ORDER

APPEARANCES

Drake D. Hill, Hill Law Firm, and Tonia Hanson, Hanson Law Office, LLC, filed a brief on behalf of Petitioners, Clyde A. Snell and Judith L. Snell Revocable Trusts (Petitioners).

Tucker J. Ruby, Johnson County and Prosecuting Attorney, and Barry V. Crago, Johnson County Civil Deputy Attorney, filed a brief on behalf of the Johnson County Assessor, Cynthia Barlow (Assessor).

DIGEST

Petitioners appealed from a Johnson County Board of Equalization (County Board) decision affirming Assessor's 2015 valuation of certain Trust property. Petitioners claimed Assessor overvalued their vacant property located in Johnson County, Wyoming. In addition Petitioners challenged the legitimacy of Wyoming's CAMA system and offered several other arguments in support of their appeal.

The Wyoming State Board of Equalization (State Board), Chairman E. Jayne Mockler, Vice Chairman Martin L. Hardsocg, and Board Member Robin Sessions Cooley, reviewed the County Board record to determine whether the County Board decision was arbitrary, capricious, unsupported by substantial evidence, and/or contrary to law. Rules, Wyo. State Bd. of Equalization, ch. 3 § 9 (2006). The State Board affirms the County Board's decision upholding Assessor's 2015 valuation of Petitioners' property.

ISSUES

Petitioners identified two issues on appeal, which they stated as affirmative arguments:

1. An equal and uniform assessment methodology does not exist in Wyoming's property tax system as a result of subjective overrides and manipulations of the uniform taxation system; and
2. Procedural due process is denied by vesting review authority in those with a financial stake in the proceedings.

(Pet'rs' Opening Br. 1, 7).

Assessor identified four issues on appeal:

- A. Whether the Johnson County Board of Equalization's decision was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law.
- B. Whether the Johnson County Board of Equalization's decision was in excess of statutory jurisdiction, authority or limitation or lacking statutory right.
- C. Whether the Johnson County Board of Equalization failed to observe procedure required by law.
- D. Whether the Johnson County Board of Equalization's decision was supported by substantial evidence.

(Assessor's Resp. Br. 2).

PROCEEDINGS BEFORE THE COUNTY BOARD

The County Board conducted a contested case hearing on June 30, 2015, during which Mr. Snell, on behalf of the Trusts, and Assessor, each testified and presented exhibits. The County Board issued its Findings of Fact, Conclusions of Law and Order on September 11, 2015, affirming Assessor's valuation of the Snell's Trust Property. (R. at 56-76).

STANDARD OF REVIEW

When the State Board hears appeals from a county board, it sits as an intermediate level of appellate review. *Town of Thermopolis v. Deromedi*, 2002 WY 70, ¶ 11, 45 P.3d 1155, 1159 (Wyo. 2002) (quoting *Laramie Cty. Bd. of Equalization v. Wyo. State Bd. of Equalization*, 915 P.2d 1184, 1188 (Wyo. 1996); *Union Pac. R.R. Co. v. Wyo. State Bd. of Equalization*, 802 P.2d 856, 859 (Wyo. 1990)). In its appellate capacity, the State Board treats a county board as the finder of fact. *Id.*

The State Board's standard of review of a county board decision is, by rule, nearly identical to the Wyoming Administrative Procedure Act standard which a district court must apply in reviewing agency action, findings of fact, and conclusions of law. Wyo. Stat. Ann. § 16-3-114(c)(ii) (2015). The State Board's review is limited to a determination of whether a county board's action is:

- (a) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
- (b) In excess of statutory jurisdiction, authority or limitations or lacking statutory right;
- (c) Without observance of procedure required by law; or
- (d) Unsupported by substantial evidence.

Rules, Wyo. State Bd. of Equalization, ch. 3 § 9(a)-(d) (2006).

Since the State Board Rules are patterned on the judicial review provisions of the Wyoming Administrative Procedure Act, judicial rulings interpreting Wyoming Statutes section 16-3-114(c) (2015) offer guidance. For example, where both parties submit evidence at a contested case hearing, we apply the substantial evidence standard:

We review an administrative agency's findings of fact pursuant to the substantial evidence test. *Dale v. S & S Builders, LLC*, 2008 WY 84, ¶ 22, 188 P.3d 554, 561 (Wyo. 2008). Substantial evidence is relevant evidence which a reasonable mind might accept in support of the agency's conclusions. *Id.*, ¶ 11, 188 P.3d at 558. Findings of fact are supported by substantial evidence if, from the evidence in the record, this Court can discern a rational premise for the agency's findings. *Middlemass v. State ex rel. Wyo Workers' Safety & Comp. Div.*, 2011 WY 118, ¶ 11, 259 P.3d 1161, 1164 (Wyo. 2011). When the hearing examiner determines that the burdened party failed to meet his burden of proof, we will decide whether there is substantial

evidence to support the agency's decision to reject the evidence offered by the burdened party by considering whether that conclusion was contrary to the overwhelming weight of the evidence in the record as a whole. *Dale*, ¶ 22, 188 P.3d at 561.

Jacobs v. State, ex rel., Wyo. Workers' Safety & Comp. Div., 2013 WY 62, ¶ 8, 301 P.3d 137, 141 (Wyo. 2013).

In conjunction with the substantial evidence standard, the State Board applies the "arbitrary and capricious" standard:

The arbitrary and capricious standard of review is used as a "safety net" to catch agency action that prejudices a party's substantial rights or is contrary to the other review standards, but is not easily categorized to a particular standard. *Jacobs*, ¶ 9, 301 P.3d at 141. "The arbitrary and capricious standard applies if the agency failed to admit testimony or other evidence that was clearly admissible, or failed to provide appropriate findings of fact or conclusions of law." *Id.*

Gonzales v. Reiman Corp., 2015 WY 134, ¶ 16, 357 P.3d 1157, 1162 (Wyo. 2015).

The State Board reviews conclusions of law de novo:

Questions of law are reviewed *de novo*, and " '[c]onclusions of law made by an administrative agency are affirmed only if they are in accord with the law. We do not afford any deference to the agency's determination, and we will correct any error made by the agency in either interpreting or applying the law.' " *Bowen v. State, Dep't of Transp.*, 2011 WY 1, ¶ 7, 245 P.3d 827, 829 (Wyo. 2011) (quoting *State ex rel. Workers' Safety & Comp. Div. v. Garl*, 2001 WY 59, ¶ 9, 26 P.3d 1029, 1032 (Wyo. 2001)).

Maverick Motorsports Grp., LLC v. Dep't of Revenue, 2011 WY 76, ¶ 12, 253 P.3d 125, 128 (Wyo. 2011). Likewise, we review the findings of ultimate fact of a county board de novo:

When an agency's determinations contain elements of law and fact, we do not treat them with the deference we reserve for findings of basic fact. When reviewing an "ultimate fact," we separate the factual and legal aspects of the finding to determine whether the correct rule of law has been properly applied to the facts. We do not defer to the agency's ultimate factual finding if there is an error in either stating or applying the law.

Basin Elec. Power Coop., Inc. v. Dep't of Revenue, State of Wyo., 970 P.2d 841, 850-51 (Wyo. 1998) (quoted in *Chevron U.S.A., Inc. v. Dep't of Revenue*, 2007 WY 79, ¶ 10, 158 P.3d 131, 134 (Wyo. 2007)).

FACTS PRESENTED TO THE COUNTY BOARD

1. Clyde A. Snell, Trustee, represented Petitioners, the Clyde A. Snell Revocable Trust and the Judith L. Snell Revocable Trust, before the County Board. (Hr'g Recording 1-2).
2. Petitioners jointly own vacant land located at 730 North Ridge Way, Lot 37, in Buffalo, Johnson County, Wyoming. (R. at 6).
3. On April 9, 2015, Assessor mailed Petitioners a notice of assessment for the vacant lot. Assessor first valued the property at \$276,510. Recognizing an error in the notice, she mailed an amended notice, also on April 9, 2015, valuing the property at \$96,779. (R. at 7-8).
4. On April 13, 2015, Mr. Snell met with the Assessor to review the assessment. As a result of that meeting, Assessor made several adjustments to the land attributes and issued a final Notice of Assessment on April 22, 2015. Assessor valued Petitioners' Residential Vacant Land at \$54,227. (R. at 6; Hr'g Recording 1, Snell Testimony).
5. On May 12, 2015, Petitioners appealed the Assessor's final 2015 valuation of the property. (R. at 1). Mr. Snell argued that "the lot is 75,964 sq ft., only 15,000 sq ft is buildable (19.74%)[.] The balance is landlocked w/o utilities and is comprised of steeply pitched sideslope. These negative attributes were dropped in this year's assessment resulting in gross over valuation." (R. at 1). Mr. Snell further reasoned "the lot hasn't changed since purchase in 1997 and should be valued at last year's value of \$34,516[.]" (R. at 2).
6. Mr. Snell claimed the State illegally required him to pay taxes on an unrealized capital gain on the property. Acknowledging the State uses a fair market value system, Mr. Snell stated that "nowhere else is an unrealized capital gain taxed." He believed the property should be assessed closer to the amount he paid for it in 1997, \$32,000. (Hr'g Recording 1, Snell Testimony, Hr'g Recording 2, Snell Testimony).
7. Mr. Snell also generally argued the appeal process was unfair, alleging the County Board had an inherent conflict of interest: "In almost 75 years of my life I have never seen a more perfect example of a Kangaroo Court. You folks value the property and then you

determine how you are going to spend the taxes on it and if it were me I would recuse myself, there is no way I would touch it. I would just like you to think about it because it's not equitable. But here we are.” (Hr’g Recording 1, Snell Testimony).

8. Pointing to the succession of corrected assessments, Mr. Snell suggested the valuation methodology and process lacked credibility. (Hr’g Recording 1, Snell Testimony; Hr’g Recording 2, Snell Testimony).

9. In support of Petitioners’ argument that Assessor overvalued the property, Mr. Snell provided a Multiple List Service (MLS) flyer, which listed a 26,142 square foot vacant lot at 710 North Ridge Way for \$45,500. Mr. Snell argued that the lot for sale had more buildable square feet than Petitioners’ lot and was evidence that their lot, with only 15,000 square feet of buildable land, should only be worth \$27,000. (Pet’rs’ Ex. A, R. at 19; Hr’g Recording 2, Snell Testimony).

10. Mr. Snell testified the property at issue had been listed for sale since 2000 for \$50,000. (Hr’g Recording 2, Snell Testimony).

11. Petitioners did not challenge Assessor’s assessment processes, except to argue that the receipt of three assessment notices was proof it was an unsound system. (R. at 1, 19-24; Hr’g Recording 1, Snell Testimony).

12. Assessor testified in support of the property assessment and valuation. Assessor had previously worked in the Johnson County Assessor’s office as a Deputy Assessor, before being elected County Assessor. She is certified through the Wyoming Department of Revenue as a property tax appraiser. (Hr’g Recording 2, Barlow Testimony).

13. Assessor discussed the process used to value Petitioners’ property. She used the Wyoming Computer Assisted Mass Appraisal (CAMA) system to value the land and explained why she issued three separate valuation notices. Her first review of the property removed all of the property attributes and market adjustments, generating a value that assumed all of the land was usable and buildable. She corrected this error immediately and sent out an amended assessment the same day. (Hr’g Recording 2, Barlow Testimony).

14. After meeting with Mr. Snell, Assessor reviewed her valuation of the property and ultimately issued a third corrected assessment. Prior to the third assessment, Assessor walked around the entire neighborhood. She also requested the county’s GIS mapper perform an elevation study, (Assessor’s Ex. 9, R. at 30), and she reviewed the property setbacks. The study led her to conclude that 80% of the property was unbuildable. She added this information as a property attribute and input the revised information into the

CAMA system for analysis. The adjustment resulted in a \$0.74 per square foot tax rate for the lot. (Hr'g Recording 2, Snell & Barlow Testimony).

15. Assessor explained how she arrived at a \$3.64 per square foot value for the buildable land. Because there are too few vacant land sales in Petitioners' Land Economic Area (LEA) to value the land based on land sale prices, she determined the vacant land value using the abstraction method which valued the land based on improved sales. For the last three years she has used the same value, \$3.64 per square feet, even though a current land ratio analysis using an allocation model demonstrated a recent upward trend to a current value of \$4.12 per square foot. (Assessor's Ex. 10, R. at 31). Assessor stated that although she is monitoring this trend, she has not yet applied this market adjustment to this LEA. She admitted she would be more comfortable using vacant land sales for comparison, as opposed to the extrapolation process. (Hr'g Recording 2, Barlow Testimony).

16. Assessor testified that when the buildable land square footage and the LEA land value are entered in the CAMA system, the final value for Petitioners' property is \$54,227. (Assessor's Ex. 5, R. at 26; Hr'g Recording 2, Barlow Testimony). Assessor also noted that the final assessment contained an error in the square footage of the property. The assessment measured the property at 74,488 square feet, when it is actually 75,964 square feet. Assessor accepted responsibility for this error, agreeing that she "owned this," and stated the land would not be reassessed or revalued in 2015, but that this error would be corrected in 2016. (Hr'g Recording 2, Barlow Testimony; Assessor's Exs. 5-6, R. at 26-27).

17. Assessor discussed the differences between the 2014 and 2015 assessments. She said while there is some subjectivity in the process, she felt that prior to 2015 there were errors made in determining the value for this property, specifically in how the previous assessor determined which property attributes and market adjustments were added to the property and then entered in the CAMA system. Prior to 2015, at the request of Petitioners, the previous assessor made two adjustments to the property. The first adjustment applied a .25 market adjustment to the lot which lowered the value of the lot by 75% from the LEA benchmark of 1.00. In the second adjustment, the previous assessor applied a 50% reduction to the property to account for the portion of land that was unbuildable. Together, these two adjustments generated a fair market value for the property of \$34,516. (Assessor's Ex. 4, R. at 25; Hr'g Recording 2, Barlow Testimony).

18. Assessor explained that appraisal standards require that market adjustments be applied equally to all property in an LEA. In 2015, Assessor increased the market adjustment on Petitioners' lot to 1.00 to ensure the lot was valued the same as the rest of the LEA. She then adjusted the attribute adjustment to .20 to reflect that 80% of the lot was unbuildable. These two adjustments generated a fair market value of \$54,226.97 for

Petitioners' land. (Assessor's Ex. 3, R. at 24; Hr'g Recording 2, Barlow Testimony); *supra* ¶ 13.

19. Assessor conceded that the valuation notice's Land Valuation Summary/Property Detail section inadequately explained the adjustments, and that Petitioners' confusion was understandable. She reviewed the summaries for both 2014 and 2015 to illustrate this point. She noted that the 2014 summary (Assessor's Exhibit 6, R. at 27) only reflected a -0.500 adjustment on the general land attributes. In 2015, the summary (Assessor's Ex. 5, R. at 26) only reflected the -0.800 adjustment on the topography attribute. Neither summary showed the market adjustments made on the property. Consequently, the taxpayer would not have the entire picture when reviewing the summaries and/or the assessment. (Hr'g Recording 2, Barlow Testimony).

20. Assessor also discussed why she did not consider Petitioners' suggestion that the property be considered a "buffer" lot. She stated that all land is considered taxable and that she understood that buffer characteristics are more appropriately reserved for common areas. As a result, Petitioners' property did not qualify for a buffer exemption. (Hr'g Recording 1, Barlow Testimony, Snell Testimony; Hr'g Recording 2, Barlow Testimony).

21. The County Board issued its decision on September 11, 2015, affirming Assessor's fair market value of \$54,227.00. (R. at 72-76).

APPLICABLE LAW

22. The Wyoming Constitution, article 15, sections 11(a) and (d), requires all property "be uniformly valued at its full value as defined by the legislature. . . . The legislature shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal."

23. Broken into its component parts, the Wyoming Constitution requires that property valuation consists of: (1) a rational method of valuation; (2) that is equally applied to all property; and (3) which provides essential fairness. It is the burden of the party challenging an assessment to prove by a preponderance of the evidence that at least one of these elements has not been fulfilled. *Basin Elec. Power Coop. v. Dep't of Revenue, State of Wyo.*, 970 P.2d 841, 852 (Wyo. 1998).

24. The Legislature requires that all property in Wyoming be valued annually at fair market value. Wyo. Stat. Ann. § 39-13-103(b)(ii) (2015). Fair market value is defined as:

[T]he amount in cash, or terms reasonably equivalent to cash, a well informed buyer is justified in paying for a property and a well informed seller is justified in accepting, assuming neither party to the transaction is acting under undue compulsion, and assuming the property has been offered in the open market for a reasonable time[.]

Wyo. Stat. Ann. § 39-11-101(a)(vi) (2015).

25. The county assessor must annually determine the fair market value of residential real property within the assessor's county. In doing so, the assessor is required to "[f]aithfully and diligently follow and apply the orders, procedures and formulae of the department of revenue or orders of the state board of equalization for the appraisal and assessment of all taxable property[.]" Wyo. Stat. Ann. § 18-3-204(a)(ix) (2015).

26. The Department is required by law to confer with, advise, and give necessary instructions and directions to the county assessors regarding their duties, and to promulgate rules and regulations necessary for the enforcement of all tax measures. Wyo. Stat. Ann. § 39-11-102(c)(xvi), (xix) (2015). In particular, the Department must "prescribe by rule and regulation the appraisal methods and systems for determining fair market value using generally accepted appraisal standards[.]" Wyo. Stat. Ann. § 39-13-103(b)(ii) (2015).

27. The Department has promulgated rules to provide appraisal methodologies for county assessors. Rules, Wyo. Dep't of Revenue, ch. 9 § 5 (2011). Those rules specifically provide for the use of a computer assisted mass appraisal (CAMA) system. Rules, Wyo. Dep't of Revenue, ch. 9 § 7 (2011).

28. CAMA "automates the comparable sales and replacement cost methods." *Britt v. Fremont Cty. Assessor*, 2006 WY 10, ¶ 39, 126 P.3d 117, 128 (Wyo. 2006). The Wyoming Supreme Court has recognized the validity of valuations derived from the CAMA system. *Id.*; *Gray v. Wyo. State Bd. of Equalization*, 896 P.2d 1347, 1351 (Wyo. 1995). In fact, the Wyoming Supreme Court rejected the use of actual sales price for properties in favor of the value established by the CAMA system because of the equality and uniformity which result from its use. *Gray*, 896 P.2d at 1351.

29. The determination of fair market value inevitably involves a degree of discretion:

Early on, Justice Blume recognized a truth inherent in the area of property valuation: "There is no such thing as absolute value. A stone cannot be other than a stone, but one man may give a different valuation to a piece of land than another." *Bunten v. Rock Springs Grazing Ass'n*, 29 Wyo. 461,

475, 215 P. 244, 248 (1923). Accordingly, this court has consistently interpreted Wyo. Const. art. 15, § 11 to require “only a rational method [of appraisal], equally applied to all property which results in essential fairness.”

Holly Sugar Corp. v. State Bd. of Equalization, 839 P.2d 959, 964 (Wyo. 1992) (alteration in original) (quoted in *Basin Elec. Power Coop.*, 970 P.2d at 857).

30. The Wyoming Supreme Court described the burden of proof one bears when challenging a county assessor’s valuation:

A strong presumption favors the Assessor’s valuation. “In the absence of evidence to the contrary, we presume that the officials charged with establishing value exercised honest judgment in accordance with the applicable rules, regulations, and other directives that have passed public scrutiny, either through legislative enactment or agency rule-making, or both.” *Amoco Production Co. v. Dept. of Revenue*, 2004 WY 89, ¶ 7, 94 P.3d 430, 435 (Wyo. 2004). The Britts [protesting Petitioners] had the initial burden of presenting evidence sufficient to overcome the presumption. *Id.*, ¶ 8. If the Britts successfully overcame the presumption, then the county board was “required to equally weigh the evidence of all parties and measure it against the appropriate burden of proof.” *CIG v. Wyoming Dept. of Revenue*, 2001 WY 34, ¶ 10, 20 P.3d 528, 531 (Wyo. 2001). The burden of going forward would then have shifted to the Assessor to defend her valuation. *Id.* Above all, the Britts bore “the ultimate burden of persuasion to prove by a preponderance of the evidence that the valuation was not derived in accordance with the required constitutional and statutory requirements for valuing . . . property.” *Id.*

Britt, ¶ 23, 126 P.3d at 125.

31. A county board:

[M]ay receive evidence relative to any assessment and may require the person assessed or his agent or attorney to appear before it, be examined and produce any documents relating to the assessment. The appeal may be dismissed if any person willfully neglects or refuses to attend a meeting of a county board and be examined or answer any material question upon the board’s request. The state board of equalization shall adopt rules to be followed by any county board of equalization when conducting appeals under this subsection. All hearings shall be conducted in accordance with the rules adopted by the state board of equalization. Each hearing shall be

recorded electronically or by a court reporter or a qualified stenographer or transcriptionist. The taxpayer may present any evidence that is relevant, material or not repetitious, including expert testimony, to rebut the presumption in favor of a valuation asserted by the county assessor.

Wyo. Stat. Ann. § 39-13-109(b)(i)(2015).

DISCUSSION AND ANALYSIS OF THE ISSUES

32. Petitioners timely appealed Assessor's 2015 property assessment. The County Board held a contested case hearing, and subsequently affirmed Assessor's valuation. Petitioners timely appealed the County Board's decision to the State Board and the State Board has jurisdiction to hear and decide this matter. *Supra* ¶¶ 4, 5, 21.

33. Petitioners raise several challenges to Assessor's valuation. Petitioners primarily complain that the State's CAMA system is flawed in that it allowed Assessor to subjectively adjust the value up based on improvements, without accounting for negative adjustments. (Pet'rs' Opening Br. 4-7). Petitioners argue that Assessor ignored a comparable sale because the property was a dissimilar "buffer lot." (Pet'rs' Opening Br. 5-6). Petitioners contend the system substitutes "subjective opinion" for accepted appraisal methodology and demand that the State Board either require different valuation appraisal standards based on "strict appraisal practice[,]" or, that it strike down the CAMA system. (Pet'rs' Opening Br. 6-7).

34. Additionally, Petitioners claim they were denied due process when the Board of County Commissioners, which plays a role in determining how tax dollars are spent, acted pursuant to statute as the County Board and determined their tax appeal. (Pet'rs' Opening Br. 7-9).

35. This Board must determine whether the County Board's decision was supported by substantial evidence and whether the County Board correctly applied the law. In determining whether there is substantial evidence in the record, the State Board will not substitute its judgment for findings reasonably supported by evidence in the County Board record. *Laramie Cty. Bd. of Equalization v. Wyo. State Bd. of Equalization*, 915 P.2d 1184, 1188-89 (Wyo. 1996); *Holly Sugar Corp. v. State Bd. of Equalization for State of Wyo.*, 839 P.2d 959 (Wyo. 1992); *Sage Club, Inc. v. Emp't Sec. Comm'n of Wyo.*, 601 P.2d 1306, 1310 (Wyo. 1979). While substantial evidence may be less than the weight of the evidence, it cannot be clearly contrary to the overwhelming weight of the evidence. The Wyoming Supreme Court has stated " '[s]ubstantial evidence' is a term of art best described as relevant evidence that a reasonable mind can accept as adequate to support an agency's

conclusion.” *Sidwell v. State, ex rel., Wyo. Workers’ Comp. Div.*, 977 P.2d 60, 63 (Wyo. 1999).

36. Assessor clearly outlined the valuation process applied to Petitioners’ property. She described the neighborhood in which the property was located, the additional steps she undertook to value the property, including a review of the additional GIS mapping information, and her personal inspection of the property. She recounted her office’s process for valuing vacant land in an LEA to demonstrate valuation uniformity. Assessor also reviewed the MLS listing provided by Petitioners to support their proposed value and explained that she is precluded by Department appraisal standards and the CAMA system from using a single unsubstantiated property listing as evidence of value. *Supra* ¶¶ 13-18.

37. Petitioners’ basic challenge to the valuation was rooted in their disagreement with Wyoming’s CAMA mass-appraisal system, which Petitioners argued allows subjectivity in the appraisal process. *Supra* ¶ 8. However, the Wyoming Supreme Court has held the CAMA system “conforms with the equal and uniform taxation requirements of the constitution.” It “ ‘substantially covers the ground of the due process and equal protection clauses of the Federal and State Constitution. *Unemployment Compensation Comm’n of Wyoming v. Renner*, 59 Wyo. 437, 452, 143 P.2d 181, 186 (1943).’ ” *Gray v. Wyo. State Bd. of Equalization*, 896 P.2d 1347, 1351 (Wyo. 1995); *supra* ¶ 28.

38. Petitioners ask that the State Board find the CAMA system is contrary to the Wyoming Constitution or Wyoming law; the State Board has no authority to do so. In *Belco Petroleum Corp. v. State Board of Equalization*, 587 P.2d 204, 214 (Wyo. 1978), the Wyoming Supreme Court held that “an administrative agency has no authority to determine the constitutionality of a statute. This is so whether the question is the constitutionality of the statute per se or the constitutionality of the statute as applied.” (Citations omitted). Petitioners must challenge a statute’s constitutionality through a declaratory judgment action in accordance with Wyoming Statutes sections 1-37-101 through 1-37-115 (2015).

39. Petitioners may still challenge the manner in which Assessor applied the system to value their property. However, while Petitioners disagreed with how Assessor valued their property using the CAMA system, they failed to offer sufficient evidence to demonstrate that Assessor’s use of the CAMA system was inconsistent with state statutes or against the rules. *Supra* ¶¶ 5-6, 30-31, 35.

40. Petitioners disagreed with Assessor’s review and application of positive and negative indicators to value the property, focusing only on the Assessor’s disagreement with Petitioners’ asserted comparable sale of a neighboring lot. (Pet’rs’ Opening Br. 5-6). Petitioners then claimed that “[t]he Assessor provided no evidence that the subjective factors she utilized were applied uniformly to all property in the same class.” (Pet’rs’

Opening Br. 6). Notwithstanding the Assessor's explanation of how she examined and valued Petitioners' property as part of an LEA, it was Petitioners' burden to demonstrate an erroneous application of CAMA, including a lack of uniformity. *Supra* ¶¶ 30-31. "[W]e presume that the officials charged with establishing value exercised honest judgment in accordance with the applicable rules, regulations, and other directives that have passed public scrutiny, either through legislative enactment or agency rule-making, or both." *Amoco Prod. Co. v. Dep't of Revenue*, 2004 WY 89, ¶ 7, 94 P.3d 430, 435 (Wyo. 2004). In the absence of evidence to the contrary, the State Board must affirm Assessor's valuation judgment and actions.

41. Moreover, Petitioners' conclusory arguments that the CAMA system is fatally flawed because it permits a degree of subjectivity and must be replaced by a system imposing "rigorous" appraisal standards, is just that, a conclusory argument. Petitioners offered no evidence the Assessor incorrectly applied the CAMA system, or that Assessor's discretion was applied in a manner that violated Petitioners' right to a uniform, fair market value assessment of the property.

42. In addition to challenging the Assessor's valuation, Petitioners claim they were deprived of due process when the County Board of Commissioners, sitting as the County Board of Equalization, presided over their appeal. Petitioners allege the County Commissioners, because of a financial bias in favor of generating more taxes and enlarging their budget, could not fairly or objectively adjudicate the appeal. (Pet'rs' Opening Br. 7-9).

43. Petitioners again ask the State Board for relief it cannot provide. Absent clear evidence to the contrary in the record, if Petitioners seek a determination that a county board of equalization cannot "serve as impartial and unbiased fact finders . . . and that such a system violates the procedural due process requirements of the Wyoming and United States Constitutions[.]" they must seek such relief in a declaratory judgment action in district court. (Pet'rs' Opening Br. 9); *supra* ¶ 39. Such relief falls exclusively within the purview of the Uniform Declaratory Judgments Act, Wyoming Statutes sections 1-37-101 thru-1-37-115 (2015).

44. Still, public officials "shall not make an official decision or vote on an official decision if the public official . . . has a personal or private interest in the matter." Wyo. Stat. Ann. § 9-13-106(a) (2015). A public official must take into account his or her obligation of representing and working on behalf of his constituency, and should only abstain "in clear cases of a personal or private interest[.]" *Id.* The term "personal or private interest" includes only direct and immediate interests, and an interest that would provide to the official "a greater benefit or a lesser detriment" than received by a similarly situated

large group or class of persons. Wyo. Stat. Ann. § 9-13-106(a)(i)-(ii) (2015). Thus, under the Wyoming Ethics and Disclosure Act, county commissioners are not conflicted unless the decision would result in a direct, estimable benefit to the commissioner, and that benefit must be such that it would not accrue to a large group or class of people. Wyo. Stat. Ann. § 9-13-101 (2015). Decision makers in administrative proceedings are presumed to be honest and to act with integrity, a presumption that may be overcome with evidence. *Ririe v. Bd. of Trs. of Sch. Dist. No. One, Crook Cty., Wyo.*, 674 P.2d 214, 223 (Wyo. 1983). Petitioners provided no evidence of bias or dishonesty in the County Board proceedings.

45. In addition, the Wyoming Administrative Procedure Act, Wyoming Statutes section 16-3-112(a) (2015), requires those presiding over a contested case hearing to timely recuse themselves to ensure an impartial proceeding. The County Board, acting through its hearing officer, had broad authority to regulate the course of proceedings and respond to any procedural challenge, including an alleged conflict of interest. Finally, county commissioners take an oath to “faithfully and impartially discharge the duties of [their] office as prescribed by law[.]” Wyo. Stat. Ann. § 18-1-305 (2015); Wyo. Const. art. 6 § 20.

46. Petitioners have offered no evidence of a conflict of interest beyond the thin claim that all county boards of equalization are fatally conflicted from hearing a tax appeal because of their role in setting the budget as county commissioners. Under Wyoming law, such unsupported claims are not sufficient. Petitioners were required to timely object or, in any event, present evidence of a commissioner’s personal or private interest in Petitioners’ valuation dispute. *Supra* ¶¶ 45-46. Without such evidence, we presume the County Board, to a member, acted without bias in reviewing Petitioners’ appeal and affirming Assessor’s valuation.

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ORDER

IT IS THEREFORE ORDERED the decision of the Johnson County Board of Equalization is **affirmed**.

Pursuant to Wyo. Stat. Ann. §16-3-114 (2015) and Rule 12, Wyoming Rules of Appellate Procedure, any person aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days of the date of this decision.

Dated this 13th day of October, 2016.

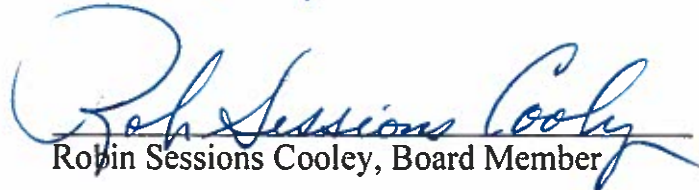
STATE BOARD OF EQUALIZATION



E. Jayne Mockler, Chairman

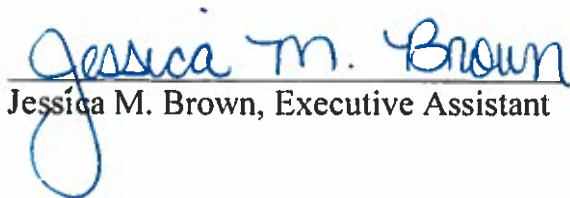


Martin L. Hardsocg, Vice-Chairman



Robin Sessions Cooley, Board Member

ATTEST:



Jessica M. Brown, Executive Assistant

CERTIFICATE OF SERVICE

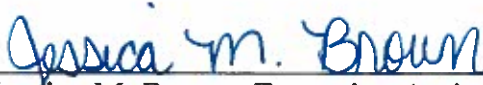
I hereby certify that on the 13th day of October, 2016, I served the foregoing **DECISION AND ORDER** by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

Tucker Ruby
Johnson County Attorney
620 W. Fetterman Street, Suite 168
Buffalo, WY 82834

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State Board of Equalization
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cc: SBOE
Dan Noble, Director, Department of Revenue
Brenda Arnold, Property Tax Division, Department of Revenue
Treasurer – Johnson County
CCH
ABA State and Local Tax Reporter
Tax Analysts
Lexis-Nexis
LSO
State Library
File